

UNITED STATES DISTRICT COURT  
DISTRICT OF SOUTH DAKOTA  
NORTHERN DIVISION

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TERINIE SUTHERLAND,  
Plaintiff,

1:21-CV-1017

vs.

**COMPLAINT WITH JURY TRIAL  
DEMANDED**

GRANGAARD CONSTRUCTION, INC.,  
and ROBERT CLEMENT,  
Defendant,

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COMES NOW Plaintiff Terinie Sutherland, by and through her counsel, and brings this action for retaliation, sex discrimination, and other violations of law, stating the following claims against Defendants Grangaard Construction, Inc. and Robert Clement as follows:

**PARTIES**

1. At all relevant times, Terinie Sutherland has been an adult female resident of Sisseton, South Dakota.
2. At all relevant times, Grangaard Construction, Inc, has been a South Dakota corporation engaged the business of bridge building, and is headquartered in Watertown, South Dakota.
3. Brothers Yancy Grangaard and Jeremiah Grangaard actively manage and co-own the Grangaard Construction, Inc. business.
4. At all relevant times, Robert Clement was an adult resident of the state of South Dakota and a Grangaard employee.



5. At all relevant times, Plaintiff was an “employee” of Grangaard Construction, Inc. within the meaning of 42 U.S.C. § 2000e(f) and S.D. Stat. § 20-13-1. During her employment, Plaintiff was based out of Grangaard Construction, Inc.’s Watertown office.

### **JURISDICTION & VENUE**

6. This action arises under Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000e et seq. (“Title VII”). As such, this Court has original jurisdiction to hear this Complaint and to adjudicate the claims stated herein pursuant to 28 U.S.C. § 1331.

7. Plaintiff timely filed her Charge of Discrimination on January 6, 2020, and after a Determination of Probable Cause was issued, Plaintiff received a Notice of Right to Sue on April 29, 2021.

8. Plaintiff brings additional claims under the South Dakota Human Relations Act, S.D. Stat. § 20-13-1 et seq., and South Dakota common law. Supplemental jurisdiction is proper for such claims under 28 U.S.C. § 1367.

9. Venue is proper under 28 U.S.C. § 1391 because the events or omissions giving rise to the claims occurred within the Northern Division of the District of South Dakota.

### **FACTUAL ALLEGATIONS**

10. On or about July 30, 2019, Grangaard Construction, Inc. (“Grangaard Construction”) hired Sutherland as a laborer.

11. During Sutherland’s employment, she was the only female employed by Grangaard Construction.

12. Sutherland was qualified and performed the job duties assigned to her in a manner that met her employer’s expectations.



13. During Sutherland's employment, Grangaard Construction did not have a written sexual harassment policy and did not provide any verbal instruction or training to advise employees that sex discrimination is illegal, how to report discriminatory harassment, or to protect employees who engaged in protected activity from reprisal.

14. During Sutherland's employment, she was required to share hotel rooms with male co-workers when the crew was assigned to remote work because Grangaard Construction refused to pay a per diem so that she could her own room.

15. On or about October 28, 2019, Robert Clement ("Clement") sexually assaulted his co-worker Terinie Sutherland ("Sutherland") when he touched her thigh and her vagina in the presence of another male co-worker during a lunch break at a job site.

16. On November 1, 2019, Sutherland reported to Daren Barse, her foreman and half-brother, that she had been sexually assaulted by Clement and that Clement was making offensive, false sexual remarks about her to their male co-workers.

17. On November 2, 2019, Sutherland reported to Grangaard Construction's president Yancy Grangaard that she had been sexually assaulted by Clement and that Clement was making offensive, false sexual remarks about her to their male co-workers.

18. Yancy Grangaard responded to Sutherland's report by telling Sutherland that he did not want to be a part of her "drama."

19. On December 5, 2019, Sutherland texted Jeremiah Grangaard and asked whether she should report being sexually assaulted by Clement to the South Dakota Department of Transportation (the "DOT") or the police. Jeremiah Grangaard responded that she should start with the police.



20. On December 5, 2019, Sutherland reported to local law enforcement that Clement had sexually assaulted her and the police opened an investigation into her report.

21. On December 6, 2019, Jeremiah Grangaard approached Sutherland on a job site, handed her a phone, and told her that she needed to speak to Yancy Grangaard. When Sutherland answered the phone, Yancy Grangaard told Sutherland “not to look at anyone, not to talk to anyone and not to even look up” or she would be terminated immediately. He continued: “I don’t know what you are trying but I do promise you, my lawyer is more expensive than yours.” Sutherland handed the phone back to Jeremiah Grangaard and returned to work.

22. On December 8, 2019, Yancy Grangaard approached Sutherland on a job site and stated that two of his male employees were refusing to work with her because of “the drama” she had caused by her report to law enforcement, and that she was terminated as a result. He instructed her that if she did not leave the job site immediately, she would be arrested.

23. Sutherland obeyed Yancy Grangaard and immediately left the premises

24. Sutherland was terminated on December 8, 2019.

### **CAUSES OF ACTION**

#### **COUNT I**

#### **Reprisal Discrimination in Violation of Title VII of the Civil Rights Act of 1964 against Defendant Grangaard Construction, Inc.**

25. Plaintiff incorporates the foregoing paragraphs by reference.

26. Title VII, 42 U.S.C. § 2000e-3(a) provides in part that it is an unlawful employment practice for an “employer to discriminate against any of his employees or applicants for employment” or “to discriminate against any individual” “because [s]he has opposed any practice made an unlawful employment practice by this subchapter, or because [s]he has made a



charge, testified, assisted, or participated in any manner in an investigation, proceeding, or hearing under this subchapter.”

27. As described herein, Plaintiff was threatened, subjected to a hostile work environment, and terminated in retaliation for her protected conduct in violation of 42 U.S.C. § 2000e-3.

28. Upon information and belief, after her discharge, and in further violation of Title VII, Grangaard Construction continued to retaliate against Plaintiff by interfering with her applications for employment with other employers to ensure that she was denied other job opportunities.

29. As a direct and proximate result of Defendant’s unlawful conduct, Plaintiff has suffered loss of past and future income and employee benefits, mental anguish, emotional distress, humiliation, embarrassment, loss of reputation, and other damages in excess of \$75,000.

30. Plaintiff is entitled to submit a claim for punitive damages because Defendant committed the above-alleged conduct with reckless disregard and/or deliberate disregard for her rights and safety.

**COUNT II**  
**Sex Discrimination in Violation of**  
**Title VII of the Civil Rights Act of 1964**  
**against Defendant Grangaard Construction**

31. Plaintiff incorporates the foregoing paragraphs by reference.

32. 42 U.S.C. § 2000e-2(a)(1) provides that it is unlawful for an employer “to fail or refuse to hire or to discharge any individual, or to otherwise discriminate against any individual with respect to [her] compensation, terms, conditions, or privileges of employment, because of such individual’s . . . sex[.]”



33. Plaintiff was subjected to different terms and conditions of employment because of her sex.

34. Defendant's conduct described herein violates 42 U.S.C. § 2000e-2.

35. As a result of Defendant's conduct, Plaintiff has suffered and will continue to suffer past and present loss of income, mental anguish, emotional distress, humiliation, embarrassment, loss of reputation and other damages in an amount in excess of \$75,000.

36. Plaintiff is entitled to submit a claim for punitive damages because Defendant committed the above-alleged conduct with reckless disregard and/or deliberate disregard for her rights and safety.

**COUNT III**  
**Reprisal Discrimination in Violation of**  
**The South Dakota Human Relations Act**  
**against Defendant Grangaard Construction, Inc.**

37. Plaintiff incorporates the foregoing paragraphs by reference.

38. The South Dakota Human Relations Act of 1972 makes it an unfair or discriminatory practice to engage in any reprisal, economic or otherwise, against a person by reason of his or her protected activity. S.D. Stat. § 20-13-26.

39. Defendant's conduct described herein, including its treatment toward Plaintiff, her hostile work environment, and her termination, violates S.D. Stat. § 20-13-26.

40. Upon information and belief, after her discharge, and in further violation of the South Dakota Human Relations Act of 1972, Grangaard Construction continued to retaliate against Plaintiff by interfering with her applications for employment with other employers to ensure that she was denied other job opportunities.



41. As a result of Defendant's violations, Plaintiff has suffered and will continue to suffer damages, including past and present loss of income, mental anguish, emotional distress, humiliation, embarrassment, loss of reputation and other damages.

42. Plaintiff is entitled to submit a claim for punitive damages because Defendant committed the above-alleged conduct with reckless disregard and/or deliberate disregard for her rights and safety.

**COUNT IV**  
**Sex Discrimination in Violation of**  
**The South Dakota Human Relations Act**  
**against Defendant Grangaard Construction, Inc.**

43. Plaintiff incorporates the foregoing paragraphs by reference.

44. The South Dakota Human Relations Act of 1972 makes it an unfair or discriminatory practice to discharge an employee or refuse to hire an applicant because of sex. S.D. Stat. § 20-13-10.

45. Defendant's conduct described herein violates S.D. Stat. § 20-13-10.

46. As a result of Defendant's violations, Plaintiff has suffered and will continue to suffer damages, including past and present loss of income, mental anguish, emotional distress, humiliation, embarrassment, loss of reputation and other damages.

47. Plaintiff is entitled to submit a claim for punitive damages because Defendant committed the above-alleged conduct with reckless disregard and/or deliberate disregard for her rights and safety.

**COUNT V**  
**Assault and Battery**  
**against Defendant Robert Clement**

48. Plaintiff incorporates the foregoing paragraphs by reference.



49. Defendant Clement engaged in unwanted and illegal sexual contact with Plaintiff on by touching her genitals without consent, as prohibited by SDCL 22-22-7.4.

50. As a direct and proximate result of said conduct, Plaintiff has suffered mental anguish and emotional distress in an amount to be determined at trial.

51. Plaintiff is entitled to submit a claim for punitive damages because Defendant committed the above-alleged conduct with reckless disregard and/or deliberate disregard for her rights and safety.


**PRAYER FOR RELIEF**

WHEREFORE, Plaintiff Terinie Sutherland prays for judgment against Defendants Grangaard Construction, Inc. and Robert Clement as follows:

- A. That the practices of Defendant Grangaard Construction, Inc. as complained of in this Complaint be determined to violate the rights secured to Plaintiff under Title VII, the South Dakota Human Relations Act, and South Dakota common law;
- B. That the actions of Defendant Robert Clement as complained of in this Complaint be determined to violate the right to be free of unwanted, non-consensual sexual contact under SDCL22-22-7.4;
- C. For all relief available to Plaintiff, including compensatory relief and damages arising from loss of past and future income, benefits, emotional distress, and other damages, with interest, in an amount in excess of \$75,000;
- D. For all Plaintiff's attorneys' reasonable fees, costs and disbursements incurred herein, as allowed by law;
- E.
- F. For punitive damages, as allowed by law;
- G. For a jury trial on all issues; and
- H. For such further and other relief as the Court deems just and equitable.

Dated this 23 day of July, 2021.





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**JOHNSON POCHOP & BARTLING**

Stephanie E. Pochop (SD # 1379)

405 Main Street

Gregory, SD 57533

Telephone: (605) 835-8391

Facsimile: (605) 835-8742

stephanie@rosebudlaw.com

*Attorney for Plaintiff Terinie Sutherland*



JS 44 (Rev. 12/12)

**CIVIL COVER SHEET**

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

**I. (a) PLAINTIFFS**

Terinie Sutherland

**DEFENDANTS**

Grangaard Construction, Inc. and Robert Clement

(b) County of Residence of First Listed Plaintiff Roberts

(EXCEPT IN U.S. PLAINTIFF CASES)

County of Residence of First Listed Defendant Codington

(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

(c) Attorneys (Firm Name, Address, and Telephone Number)

Stephanie E. Pochop | Johnson Pochop & Bartling  
405 Main Street | PO Box 149 Gregory, SD 57533 (605) 835-8391

Attorneys (If Known)

Timothy J. Cummings | Green, Roby, Oviatt, Cummings & Linngren  
816 S. Broadway Watertown, SD 57201**II. BASIS OF JURISDICTION** (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff
- ☒ 3 Federal Question (U.S. Government Not a Party)
- ☐ 2 U.S. Government Defendant
- ☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

**III. CITIZENSHIP OF PRINCIPAL PARTIES** (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- |                                         | PTF                                   | DEF                        |                                                               | PTF                        | DEF                                   |
|-----------------------------------------|---------------------------------------|----------------------------|---------------------------------------------------------------|----------------------------|---------------------------------------|
| Citizen of This State                   | <input checked="" type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business in This State     | <input type="checkbox"/> 4 | <input checked="" type="checkbox"/> 4 |
| Citizen of Another State                | <input type="checkbox"/> 2            | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business in Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5            |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3            | <input type="checkbox"/> 3 | Foreign Nation                                                | <input type="checkbox"/> 6 | <input type="checkbox"/> 6            |

**IV. NATURE OF SUIT** (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES	
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	<b>PERSONAL INJURY</b> <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice	<b>PERSONAL INJURY</b> <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability <b>PERSONAL PROPERTY</b> <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other <b>LABOR</b> <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act <b>IMMIGRATION</b> <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 <b>PROPERTY RIGHTS</b> <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark <b>SOCIAL SECURITY</b> <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) <b>FEDERAL TAX SUITS</b> <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes
<b>REAL PROPERTY</b> <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	<b>CIVIL RIGHTS</b> <input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input checked="" type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 448 Education	<b>PRISONER PETITIONS</b> <b>Habeas Corpus:</b> <input type="checkbox"/> 463 Alien Detainee <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <b>Other:</b> <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement			

**V. ORIGIN** (Place an "X" in One Box Only)

- ☒ 1 Original Proceeding
- ☐ 2 Removed from State Court
- ☐ 3 Remanded from Appellate Court
- ☐ 4 Reinstated or Reopened
- ☐ 5 Transferred from Another District (specify)
- ☐ 6 Multidistrict Litigation

**VI. CAUSE OF ACTION**

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):

42 USC § 2000e et seq. (Title VIII of the Civil Rights Act of 1964, as amended)

Brief description of cause:

Sex discrimination and reprisal discrimination in employment

**VII. REQUESTED IN COMPLAINT:**
☐ CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P.

 DEMAND \$  
 \$75,000+

CHECK YES only if demanded in complaint:

JURY DEMAND: ☒ Yes ☐ No**VIII. RELATED CASE(S) IF ANY**

(See instructions):

JUDGE

DOCKET NUMBER

DATE  
07/23/2021

SIGNATURE OF ATTORNEY OF RECORD

/s/ Stephanie E. Pochop

FOR OFFICE USE ONLY

RECEIPT #

AMOUNT

APPLYING IFP

JUDGE

MAG. JUDGE